

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

THURMAN MEARIN,)	
)	
Plaintiff,)	
)	
vs.)	Civil Action No. 14-1717
)	Judge Nora Barry Fischer/
LOUIS FOLINO, Superintendent, et al.,)	Magistrate Judge Maureen P. Kelly
)	
Defendants.)	

ORDER

Thurman Mearin (“Plaintiff”) *pro se* initiated the above captioned civil rights action against Louis Folino, Carla Swartz, Robert Dietz, Gregory Johnson, Kerri Cross, Jeffrey Harkleroad, and William Shrader pursuant to 42 U.S.C. § 1983. In accordance with the Magistrate Judge’s Act, 28 U.S.C. § 636(b)(1), and Rules 72.C and 72.D of the Local Rules of Court, all pretrial matters were referred to United States Magistrate Judge.

Plaintiff’s Complaint alleged that Defendant’s violated his rights under the First and Fourteenth Amendments to the United States Constitution when he was incarcerated at the State Correctional Institution at Greene. All Defendants except for Robert Dietz (“remaining Defendants” or “Defendants”) filed their Answer to the Complaint on March 6, 2015. On May 12, 2016, Defendant Robert Dietz was dismissed from the matter as a Suggestion of Death had been filed and no motion to substitute had been filed by any of the parties. (Docket Nos. 9, 19). On August 10, 2015, the remaining Defendants filed their Motion for Summary Judgment (Docket No. 37), Brief in Support (Docket No. 38), Concise Statement of Material Facts (Docket No. 39), and Appendix in Support (Docket No. 40). Plaintiff filed his Response in Opposition (Docket No. 44) and his Concise Statement of Material Facts (Docket No. 46) on September 14, 2015.

Upon consideration of the Complaint, the Motion for Summary Judgment, the Brief in Support, the Concise Statement of Material Facts, the Appendix to Motion for Summary Judgment, the Plaintiff's Response in Opposition to Motion for Summary Judgment, and Plaintiff's Concise Statement of Material Facts, the Magistrate Judge issued a Report and Recommendation on January 19, 2016 (Docket No. 52), recommending that the Motion be granted. Service of the Magistrate Judge's Report and Recommendation was made on the parties, who were informed that, in accordance with the Magistrate Judge's Act, 28 U.S.C. § 636(b)(1)(B) and (C), and Local Rule of Court 72.D.2, they had until February 2, 2016 to file written objections. On motion, Plaintiff was granted an extension until March 7, 2016 to file objections. (Docket Nos. 53, 54). Plaintiff filed his Objections to Report and Recommendation on March 1, 2016 (Docket No. 55), and remaining Defendants filed their Response to Objections to Report and Recommendation on March 14, 2016. (Docket No. 57).

After undertaking an independent review of the record, the Defendants' Motion for Summary Judgment (Docket No. 37), the Brief in Support (Docket No. 38), Defendants' Concise Statement of Material Facts (Docket No. 39), the Appendix to Motion for Summary Judgment (Docket No. 40), the Plaintiff's Response in Opposition to Motion for Summary Judgment (Docket No. 45), Plaintiff's Concise Statement of Material Facts (Docket No. 46), the Magistrate's Report and Recommendation (Docket No. [52]), and Plaintiff's Objections to Report and Recommendation (Docket No. 55),

AND NOW, this 16th day of March, 2016,

IT IS HEREBY ORDERED that Plaintiff's Objections [55] are OVERRULED;

IT IS FURTHER ORDERED that the Report and Recommendation [52] is adopted as the Opinion of the Court;

IT IS FURTHER ORDERED that Defendants' Motion for Summary Judgment is
GRANTED;

IT IS FURTHER ORDERED that the Clerk of Court mark this case CLOSED;
and

FINALLY, IT IS ORDERED that pursuant to Rule 4(a)(1) of the Federal Rules of
Appellate Procedure, if any party wishes to appeal from this Order a notice of appeal, as
provided in Fed. R. App. P. 3, must be filed with the Clerk of Court, United States District Court,
at 700 Grant Street, Room 3110, Pittsburgh, PA 15219, within thirty (30) days.

An appropriate judgment will be entered.

s/Nora Barry Fischer
United States District Judge

cc/ecf: Honorable Maureen P. Kelly
United States Magistrate Judge
All counsel of record

cc: Thurman Mearin
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